

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

91

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/981, 998 05/11/98 PULST

S 232.00010120

HM22/0616

EXAMINER

MYRA H MCCORMACK
MUETING RAASCH & GEBHARDT
PO BOX 581415
MINNEAPOLIS MN 55458-1415

BUGAISKY, G

ART UNIT

PAPER NUMBER

1653

DATE MAILED:

06/16/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	08/981 998	Applicant(s)	PULST
Examiner	Bugajsky	Group Art Unit	1653

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- Responsive to communication(s) filed on _____.
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- Claim(s) 1 - 43 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) _____ is/are rejected.
- Claim(s) _____ is/are objected to.
- Claim(s) 1-43 are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - All Some* None of the CERTIFIED copies of the priority documents have been received.
 - received in Application No. (Series Code/Serial Number) _____.
 - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948 Other Notice to Comply w/ 37 CFR 1.821 1.823

Office Action Summary

Art Unit: 1653

DETAILED ACTION

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

APPLICANT IS GIVEN A ONE MONTH EXTENDABLE PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR 1.821 - 1.825. Failure to comply with the requirements of 37 CFR 1.821 - 1.825 will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Election/Restriction

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9, 16-23 and 38 drawn to nucleic acids and constructs encoding SCA2, SCA2 polypeptide, and a first method of use of the constructs..

Art Unit: 1653

Group II, claim(s) 10-12, 40 and 43, drawn to oligonucleotides hybridizing to specific SEQ IDs.

Group III, claim(s)13-15, 27-29, drawn to antisense oligonucleotides complementary to a coding strand..

Group IV, claim(s) 24-26 and 30, drawn to antibodies.

Group V, claim(s)31-36, drawn to transgenic non-human animals.

Group VI, claim(s)37 and 41-42, drawn to a second method of use, hybridization/and or amplification with the oligonucleotides of Group II..

Group VI, claim(s) 39, drawn to a third method of use, an immunoassay with the antibodies of Group IV.

The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature is the gene encoding SCA2; thus the protein encoded by the gene shares the same technical feature, as does the first claimed use of the gene. PCT Rules 13.1-13.2 do not allow for multiple products or multiple methods of use.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Gabriele E. Bugaisky, Ph.D. whose telephone number is (703) 308-4201. The Examiner can normally be reached from 7:30 AM to 4:00 PM on weekdays.

Art Unit: 1653

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bradley L. Sisson, can be reached at (703) 308-3978.

Papers related to this application may be submitted by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.


geb
June 14, 1999


B.L. Sisson

BRADLEY SISSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

6-15-99